



11/25/03

1639 \$

PATENT
ATTORNEY DOCKET NO. 03848-00001

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

RECEIVED

DEC 04 2003

In re Application of:

Jody E. Beecher, Martin J. Goldberg, and
Glenn H. McGall

)
)
) Before the Examiner:

Jon D. Epperson, Ph.D. TECH CENTER 1600/2900

Serial No.: 09/578,282

) Art Unit:

) 1639

Filed: May 25, 2000

For: CHEMICAL AMPLIFICATION FOR THE
SYNTHESIS OF PATTERNED ARRAYS)

Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

TRANSMITTAL LETTER

In regard to the above identified application, we are transmitting herewith the attached:

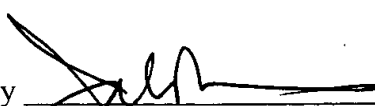
1. Amendment and Response to Office Action, with Tabs A-G,
2. Terminal Disclaimer to Obviate a Double Patenting Rejection, and
3. Return postcard.

With respect to additional fees, the Commissioner is hereby authorized to charge the disclaimer fee of \$110.00, and any additional fees or credit overpayment, to Deposit Account No. 19-0733.

Respectfully submitted,

Dated: November 24, 2003

By


John P. Iwanicki, Reg. No. 34,628
BANNER & WITCOFF, LTD.
28 State Street, 28th Floor
Boston, MA 02109
(617) 720-9600

USSN 09/578,282
Express Mail No. EV 323344308 US

Amendment in Response to Office Action dated 8/22/03

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EV323344308US

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**TERMINAL DISCLAIMER TO OBVIATE
A DOUBLE PATENTING REJECTION**

Dear Sir:

Petitioner, Affymetrix, Inc., hereby states that it is the assignee of the entire right, title and interest in the instant application. Petitioner hereby disclaims, except as provided below, the terminal part of the statutory term of any patent granted on the instant application, which would extend beyond the expiration date of the full statutory term defined in 35 U.S.C. 154 to 156 and 173, as presently shortened by any terminal disclaimer, of prior United States Patent No. 6,083,697 and as presently shortened by any terminal disclaimer filed prior to the grant of any patent granted on pending second United States Serial Application Number 09/922,426 (United States Publication No. 2002/0022721), filed on August 3, 2001. Petitioner hereby agrees that any patent so granted on the instant application shall be enforceable only for and during such period that it the prior patent and any patent granted on the second application are commonly owned. This agreement runs with any patent granted on the instant application and is binding upon the grantee, its successors or assigns.

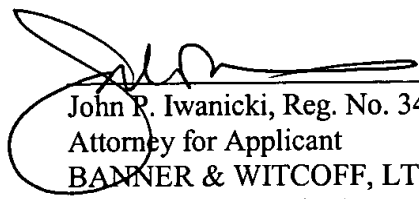
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In making the above disclaimer, petitioner does not disclaim the terminal part of any patent granted on the instant application that would extend to the expiration date of the full statutory term as defined in 35 U.S.C. 154 to 156 and 173 of the prior patent or any patent granted on the second application, as presently shortened by any terminal disclaimer either already filed or filed prior to the patent grant, in the event that the prior patent or any such granted patent later: expires for failure to pay a maintenance fee, is held unenforceable, is found invalid by a court of competent jurisdiction, is statutorily disclaimed in whole or terminally disclaimed under 37 CFR 1.321, has all claims canceled by a reexamination certificate, is reissued, or is in any manner terminated prior to the expiration of its full statutory term as presently shortened by any terminal disclaimer either already filed or filed prior to the patent grant.

The undersigned (whose title is supplied below) is empowered to act on behalf of the petitioner. The present continuation application is assigned by virtue of an assignment of the parent application from the named inventors to Affymetrix, Inc., which was recorded with the USPTO on May 8, 1998, a copy of which can be found at reel 9518 frame 0315.

I hereby declare that all statements made herein of my own knowledge are true and that all statements made on information and belief are believed to be true; and further that these statements were made with the knowledge that willful false statements and the like so made are punishable by fine or imprisonment, or both, under Section 1001 of Title 18 of the United States Code and that such willful false statements may jeopardize the validity of the application or any patent issued thereon.

Dated: November 24, 2003



John R. Iwanicki, Reg. No. 34,628
Attorney for Applicant
BANNER & WITCOFF, LTD.
28 State Street, 28th Floor
Boston, MA 02109
617-720-9600

X Terminal disclaimer fee under 37 CFR 1.20(d) included.